



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

**[EPA-HQ-OAR-2014-0492; FRL-9940-76-OAR]**

**RIN 2060-AR97**

**Clarification of Requirements for Method 303 Certification Training**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to better define the requirements associated with conducting Method 303 training courses. Method 303 is an air pollution test method used to determine the presence of visible emissions (VE) from coke ovens. This action adds language that further clarifies the criteria used by the EPA to determine the competency of Method 303 training providers, but does not change the requirements for conducting the test method. These changes will help entities interested in conducting the required training courses by clearly defining the requirements necessary to do so.

**DATES:** This rule is effective on [Insert date 60 days from date of publication in the Federal Register] without further notice, unless the EPA receives adverse comment by [Insert date 30 days from date of publication in the Federal Register]. If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2014-0492, to the *Federal eRulemaking Portal*:

<http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, Cloud, or other file sharing system).

For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FUTHER INFORMATION CONTACT:** Ms. Kim Garnett, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (Mail Code: E143-02), Research Triangle Park, NC 27711; telephone number: (919) 541-1158; fax number: (919) 541-0516; email address: [garnett.kim@epa.gov](mailto:garnett.kim@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. General Information

- A. Why is the EPA using a direct final rule?
- B. Does this action apply to me?
- C. What should I consider as I prepare my comments for the EPA?
- D. Where can I obtain a copy of this action?
- E. Judicial Review

II. This Action

III. Statutory and Executive Order Reviews

- A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
- B. Paperwork Reduction Act (PRA)
- C. Regulatory Flexibility Act (RFA)
- D. Unfunded Mandates Reform Act (UMRA)
- E. Executive Order 13132: Federalism
- F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
- G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
- H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer and Advancement Act
- J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
- K. Congressional Review Act (CRA)

**I. General Information**

A. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposed rule because we view this as a non-controversial action and anticipate no adverse comment. This action better defines the requirements associated with conducting Method 303 training courses. Method 303 is an air pollution test method used to determine the presence of VE from coke ovens.

However, in the "Proposed Rules" section of today's Federal Register, we are publishing a separate document that will serve as the proposed rule to announce the EPA's intent to revise the Method 303 training requirements, if adverse comments are received on this

direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

B. Does this action apply to me?

This action applies to you if you are a potential provider of Method 303 training services, someone seeking training to conduct Method 303, or a facility subject to Method 303.

C. What should I consider as I prepare my comments for the EPA?

1) *Submitting CBI*. Do not submit this information to EPA through [www.regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2) *Tips for Preparing Your Comments*. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).

- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

D. Where can I obtain a copy of this action?

In addition to being available in the docket, an electronic copy of this rule will also be available on the Worldwide Web (www) through the Technology Transfer Network (TTN) website. Following publication, the EPA will post the Federal Register version of the promulgation and key technical documents at <http://www.epa.gov/ttn/emc/promgate.html>.

E. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this direct final rule is available by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by [Insert date 60 days from date of publication in the Federal Register]. Under section 307(d)(7)(B) of the CAA, only an objection to this direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements that are the subject of this direct final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

## **II. This Action**

On October 27, 1993, we published Method 303 for determining VE from coke ovens (58 FR 57898). Method 303 is applicable for the determination of VE from the following by-product coke oven battery sources: charging systems during charging; doors, topside port lids and offtake systems on operating coke ovens; and collecting mains. Method 303 is also applicable to qualifying observers for visually determining the presence of VE from by-product coke ovens. The EPA received inquiries from state/local agencies seeking the specifics of the procedures used to qualify observers. As a result of these inquiries, the EPA is revising Method 303 to provide more detail to better explain the requirements necessary to qualify observers and, therefore, assist those entities who seek to understand what is needed in order to conduct and maintain an Administrator-approved

training program. Additionally, we are removing the statement indicating that these courses be conducted by or under the sanction of the EPA. Instead, Administrator-approved training providers will be allowed to conduct Method 303 training and certification. We are, therefore, revising Method 303 to define the administrative and recordkeeping requirements that must be followed by Method 303 training providers. This action: (1) defines Administrator approval of Method 303 training providers, clarifies the minimum training course requirements, and details the recordkeeping requirements that the training provider must follow in order to attain Administrator approval (section 10.1); (2) adds language to clarify that VE readers must demonstrate a perfect score on the recertification exam (section 10.1.2); (3) updates and expands the criteria used to determine who is qualified to participate on the proficiency test panel (section 10.1.3); (4) adds criteria for training certificates, submittal of this information, and recordkeeping (sections 10.1.4 - 10.1.6); and (5) defines conditions for suspension of the training provider's approval by the Administrator (section 10.1.7). There are no changes to the requirements for conducting the test method.

### **III. Statutory and Executive Order Reviews**

#### **A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review**

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. These changes do not add information collection requirements beyond those currently required under the applicable regulations.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action better defines the requirements associated with conducting Method 303 training courses and does not impose additional regulatory requirements on sources.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments, or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.



F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action adds additional language that clarifies the criteria used by the EPA to determine the competency of Method 303 training providers, but does not change the requirements for conducting the test method. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. This action does not relax the control measures on sources regulated by the rule and, therefore, will not cause emissions increases from these sources.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective [insert date 60 days from date of publication in the Federal Register].

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Test method.

Dated: February 12, 2016.

Gina McCarthy,  
Administrator.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

**PART 63 - [AMENDED]**

1. The authority citation for Part 63 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

2. In Appendix A, amend Method 303:

a. In section 5.0 by revising paragraph 5.2; and

b. In section 10.0 by:

i. Revising paragraphs 10.1, 10.1.1, 10.1.2, and 10.1.3;

ii. Adding paragraphs 10.1.4, 10.1.5, 10.1.6, and 10.1.7; and

iii. Revising paragraph 10.2.

The revisions and additions read as follows.

**Appendix A to Part 63 - Test Methods**

\* \* \* \* \*

**METHOD 303-DETERMINATION OF VISIBLE EMISSIONS FROM BY-PRODUCT**

**COKE OVEN BATTERIES**

\* \* \* \* \*

**5.0 Safety.**

\* \* \* \* \*

5.2 Safety Training. Because coke oven batteries have hazardous environments, the training materials and the field training (Section

10.0) shall cover the precautions required to address health and safety hazards.

\* \* \* \* \*

**10.0 Calibration and Standardization.**

\* \* \* \* \*

10.1 Certification Procedures. This method requires only the determination of whether VE occur and does not require the determination of opacity levels; therefore, observer certification according to Method 9 in appendix A to Part 60 of this chapter is not required to obtain certification under this method. However, in order to receive Method 303 observer certification, the first-time observer (trainee) shall have attended the lecture portion of the Method 9 certification course. In addition, the trainee shall successfully complete the Method 303 training course, satisfy the field observation requirement, and demonstrate adequate performance and sufficient knowledge of Method 303. The Method 303 training provider and course shall be approved by the Administrator and shall consist of classroom instruction, field training, and a proficiency test. In order to apply for approval as a Method 303 training provider, an applicant must submit their credentials and the details of their Method 303 training course to Group Leader, Measurement Technology Group (E143-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. Those details should include, at a minimum:

- (a) A detailed list of the provider's credentials.

(b) An outline of the classroom and the field portions of the class.

(c) Copies of the written training and lecture materials, to include:

(1) The classroom audio-visual presentation(s).

(2) A classroom course manual with instructional text and practice questions and problems for each of the elements of the Method 303 inspection (*i.e.*, charging, doors, lids and oftakes, and collecting mains). A copy of Method 303 and any related guidance documents should be included as appendices.

(3) A copy of the Method 303 demonstration video, if not using the one available on the EPA website:

<http://www3.epa.gov/ttn/emc/methods/method303trainingvideo.mp4>.

(4) Multiple-choice certification tests, with questions sufficient to demonstrate knowledge of the method, as follows: one (1) initial certification test and three (3) third-year recertification tests (the questions on any one recertification test must be at least 25 percent different from those on the other recertification tests).

(5) A field certification checklist and inspection forms for each of the elements of the Method 303 inspection (*i.e.*, charging, doors, lids and oftakes, and collecting mains).

(6) The criteria used to determine proficiency.

(7) The panel members to be utilized (see Section 10.1.3) along with their qualifications.

(8) An example certificate of successful course completion.

10.1.1 A trainee must verify completion of at least 12 hours of field observation prior to attending the Method 303 certification course. Trainees shall observe the operation of a coke oven battery as it pertains to Method 303, including topside operations, and shall also practice conducting Method 303 or similar methods. During the field observations, trainees unfamiliar with coke battery operations shall receive instruction from an experienced coke oven observer who is familiar with Method 303 or similar methods and with the operation of coke batteries.

10.1.2 The classroom instruction shall familiarize the trainees with Method 303 through lecture, written training materials, and a Method 303 demonstration video. Successful completion of the classroom portion of the Method 303 training course shall be demonstrated by a perfect score on the initial certification test. Those attending the course for third-year recertification must complete one of the recertification tests selected at random.

10.1.3 All trainees must demonstrate proficiency in the application of Method 303 to a panel of three certified Method 303 observers, including an ability to differentiate coke oven emissions from condensing water vapor and smoldering coal. The panel members will be EPA, state or local agency personnel, or industry contractors listed in 59 FR 11960 (March 15, 1994) or qualified as part of the training provider approval process of Section 10.1 of this method.

Each panel member shall have at least 120 days experience in

reading visible emissions from coke ovens. The visible emissions inspections that will satisfy the experience requirement must be inspections of coke oven battery fugitive emissions from the emission points subject to emission standards under subpart L of this part (*i.e.*, coke oven doors, topside port lids, offtake system(s), and charging operations), using either Method 303 or predecessor state or local test methods. A "day's experience" for a particular inspection is a day on which one complete inspection was performed for that emission point under Method 303 or a predecessor state or local method. A "day's experience" does not mean 8 or 10 hours performing inspections, or any particular time expressed in minutes or hours that may have been spent performing them. Thus, it would be possible for an individual to qualify as a Method 303 panel member for some emission points, but not others (*e.g.*, an individual might satisfy the experience requirement for coke oven doors, but not topside port lids). Until November 15, 1994, the EPA may waive the certification requirement (but not the experience requirement) for panel members. The composition of the panel shall be approved by the EPA.

The panel shall observe the trainee in a series of training runs and a series of certification runs. There shall be a minimum of 1 training run for doors, topside port lids, and offtake systems, and a minimum of 5 training runs (*i.e.*, 5 charges) for charging. During training runs, the panel can advise the trainee on proper procedures. There shall be a minimum of 3 certification runs for doors, topside port lids, and offtake systems, and a minimum of 15 certification

runs for charging (*i.e.*, 15 charges). The certification runs shall be unassisted. Following the certification test runs, the panel shall approve or disapprove certification based on the trainee's performance during the certification runs. To obtain certification, the trainee shall demonstrate to the satisfaction of the panel a high degree of proficiency in performing Method 303. To aid in evaluating the trainee's performance, a checklist, approved by the EPA, will be used by the panel members.

10.1.4 Those successfully completing the initial certification or third-year recertification requirements shall receive a certificate showing certification as a Method 303 observer and the beginning and ending dates of the certification period.

10.1.5 The training provider will submit to the EPA or its designee the following information for each trainee successfully completing initial certification or third-year recertification training: name, employer, address, telephone, cell and/or fax numbers, email address, beginning and ending dates of certification, and whether training was for 3-year certification or 1-year recertification. This information must be submitted within 30 days of the course completion.

10.1.6 The training provider will maintain the following records, to be made available to EPA or its designee on request (within 30 days of a request):

(a) A file for each Method 303 observer containing the signed certification checklists, certification forms and test results for



their initial certification, and any subsequent third-year recertifications. Initial certification records must also include documentation showing successful completion of the training prerequisites. Testing results from any interim recertifications must also be included, along with any relevant communications.

(b) A searchable master electronic database of all persons for whom initial certification, third-year recertification or interim recertification has been provided. Information contained therein must include: the observer's name, employer, address, telephone, cell and fax numbers and email address, along with the beginning and ending dates for each successfully completed initial, third-year and interim recertification.

10.1.7 Failure by the training provider to submit example training course materials and/or requested training records to the Administrator may result in suspension of the approval of the provider and course.

10.2 Observer Certification/Recertification. The coke oven observer certification is valid for 1 year. The observer shall recertify annually by reviewing the training material, viewing the training video and answering all of the questions on the recertification test correctly. Every 3 years, an observer shall be required to pass the proficiency test in Section 10.1.3 in order to be certified. The years between proficiency tests are referred to as interim years.

\* \* \* \* \*